

1 BARRY J. PORTMAN
Federal Public Defender
2 LARA S. VINNARD
Assistant Federal Public Defender
3 160 West Santa Clara Street, Suite 575
San Jose, CA 95113
4 Telephone: (408) 291-7753
5 Counsel for Defendant KELLEMS
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,
12
13 Plaintiff,
14 v.

Case No.: CR 11-00341 DLJ

**STIPULATION TO CONTINUE
HEARING AND EXCLUDE TIME;
ORDER**

15 JAMES KELLEMS,
16 Defendant .
17 _____/

Honorable D. Lowell Jensen

18
19 Defendant James Kellems and the government, through their respective counsel, hereby
20 stipulate that, subject to the Court's approval, the hearing in the above-captioned matter, presently
21 scheduled for Tuesday, August 30, 2011, at 9:00 a.m., be continued to Tuesday, September 27,
22 2011, at 9:00 a.m. The continuance is requested because defense investigation and preparation are
23 ongoing, such that the defense is not yet ready to set a schedule for litigation or trial.

24 The parties further agree that time should be excluded under the Speedy Trial Act because
25 the ends of justice served by granting the requested continuance outweigh the interest of the public
26

1 and the defendant in a speedy trial. The failure to grant the requested continuance would deny
 2 defense counsel reasonable time necessary for effective preparation, taking into account the exercise
 3 of due diligence, and would result in a miscarriage of justice. The parties therefore stipulate that this
 4 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

5 Dated: 8/23/11

_____/s/_____
 LARA S. VINNARD
 Assistant Federal Public Defender

7 Dated: 8/23/11

_____/s/_____
 TOM O'CONNELL
 Assistant United States Attorney

10 ORDER

11 The parties have jointly requested a continuance of the hearing set for Tuesday August 30,
 12 2011, to allow additional time for defense investigation and preparation. GOOD CAUSE
 13 APPEARING, IT IS HEREBY ORDERED that the hearing date presently set for Tuesday, August
 14 30, at 9:00 a.m., will be continued to Tuesday, September 27, 2011 at 9:00 a.m.

15 Accordingly, for good cause shown, the Court HEREBY ORDERS that time be excluded
 16 under the Speedy Trial Act from August 30 to September 27, 2011. The Court finds, based on the
 17 aforementioned reasons, that the ends of justice served by granting the requested continuance
 18 outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the
 19 requested continuance would deny defense counsel reasonable time necessary for effective
 20 preparation, taking into account the exercise of due diligence, and would result in a miscarriage of
 21 justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C.
 22 §§ 3161(h)(8)(A) and (B)(iv).

23 Dated: August 26, 2011


 D. LOWELL JENSEN
 United States District Judge